

ELM 650 Non-Bargaining Appeal Procedures

Appeal Process for EAS

Letters-of-Warning in lieu of Time-Off Suspensions

7-Day or 14-Day

And

Adverse Action

*(Removals, suspension without pay >14 days,
and/or reductions in grade or pay)*

Zoom Into Training!

Presented by Brian J. Wagner

NAPS Past National President



NAPS Disciplinary Defense Fund (DDF)*

Cases By Infraction

NAPS FY2023

1. Performance – 23
2. Finance -14
3. Falsification – 13
4. Sexual Misconduct – 9
5. Attendance - 9



NAPS FY2024

1. Performance – 35
2. Finance - 29
3. Attendance - 12
4. Falsification - 10
5. Sexual Misconduct - 8
Violence - 8
6. Theft - 5

* As reported at the 2023 and 2024 NAPS Fall Executive Board Meeting



Training Overview

- NAPS Representation under ELM 651.2
- ELM 651.6 Letters of Warning in Lieu of Time–Off Suspensions
- ELM 651.7 Adverse Action
- Response & Conduct during an Investigative Interview (I&I)
- EAS Appeal Process under ELM 651.6 & 651.7
- Actions of Member & NAPS Representative during Appeal
- ELM 650 Mediation Option (Summary)
- Written Appeal Strategies & Timelines
- Removal of Expired Discipline



ELM 650 Non-Bargaining Appeal Procedures

Who does NAPS Represent?

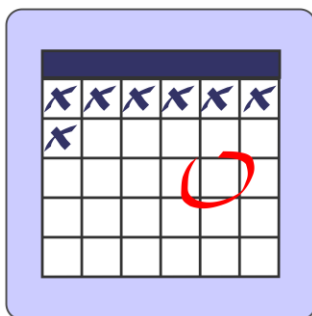
NAPS Members!

- Unlike postal unions, NAPS does not represent non-members.
- Sign up newly promoted EAS as soon as possible – NAPS Form 1187.
- Disciplinary Defense Fund (DDF) is available 90-days after an EAS employees joins NAPS, ***unless*** joins within 60-days from being promoted from craft.



ELM 650 Non-Bargaining Appeal Procedures

Letters-of-Warning (LOW) in lieu of Time-Off Suspensions for 7 Days or 14 Days



Mr. [REDACTED]
[REDACTED] District Library
[REDACTED]

Mr. [REDACTED],
I've heard that an applicant's cover letter should always lead with their strongest skill. So here we go: I can predict the future. I'll show you. At some point, someone will ask you, "Why did you hire [REDACTED]?" This is what you'll say.

His resume was a near perfect fit. His education had instilled the core values of librarianship in him, and the specific classes he took—Emerging Technologies 2.0, Fundamentals of Web Design, and Public Relations—prepared him to tackle the challenges facing libraries today. As Brand Manager for [REDACTED].com he became proficient with the WordPress content management system. Furthermore, he managed their Facebook, and Twitter accounts, and his outreach campaigns produced 2,000 new subscribers for their newsletter. So, I knew he could successfully manage our library's social media and web presence.

I did find it odd, though, that he didn't mention in his cover letter that he had taught technology workshops [REDACTED], tutored students at a local high school, and hosted Trivia Nights for 20-30 people. The job posting listed "staff and public training" as one of the responsibilities, so those all seemed like obvious correlations. I suppose he thought that conducting board meetings and developing social events as President of [REDACTED] Student Association was enough evidence of his interpersonal skills and leadership ability.

Still, I did say "near perfect fit." There were two things that gave me pause. One, he had experience in a library setting thanks to his work as an archivist for the [REDACTED] Consortium, but he had not worked in a public library before. Two, he had not worked with Drupal. However, he was adamant that he wanted to grow old in a public library, and I suppose he convinced me that his other intangibles outweighed my hesitation.

He was right. From day one, I could tell that he genuinely enjoyed interacting with our patrons. What I like about his approach to being a reference librarian is that he understands the importance of the experience for the user. I asked him once how he evaluated his work as a reference librarian. I think he said, "I wish I knew every answer, and I want every patron to leave with exactly what they needed. But that won't happen. So, I judge my success based on how many patrons seek out, my help a second, third, and fourth time." It was also easy to see that he was an intuitive technology user, so not only did he pick up on the intricacies of Drupal quickly, but he could easily assess and grasp new technologies that we investigated. Plus, he even suggested that he would audit the advanced web design class at [REDACTED] University. A desire to learn is as valuable—if not more—than accrued knowledge.

In the end, I guess I can't pinpoint the exact reason I hired him, but I'm thrilled that I did. His personality, work ethic, and creative energy have made him a valuable asset to our library.

Maybe that's not verbatim: you may add some jokes or anecdotes, but the message will remain.

Thank you for considering my application. I hope to meet with you and further discuss why I would be a successful Virtual Services Reference Librarian for the [REDACTED] Library District.

opencoverletters.com





UNITED STATES
POSTAL SERVICE.

Management Instruction

Letters of Warning in Lieu of Time-Off Suspensions

The purpose of this instruction is to establish procedures for the use of letters of warning in lieu of time-off suspensions for nonbargaining employees. This material obsoletes *Employee and Labor Relations Manual* (ELM) 651.5 and will be incorporated in a future revision of the ELM.

Policy

Letters of warning in lieu of time-off suspensions replace time-off suspensions for nonbargaining employees, except when required otherwise by statute. In addition, this policy does not preclude management from placing a nonbargaining employee in an indefinite nonpay, nonduty status when there is reasonable cause to believe the employee has committed a crime for which a sentence of imprisonment may be imposed.

Implementation

This policy applies to all cases in which a suspension of a nonbargaining employee is contemplated but has not been initiated. The policy is not intended to be applied retroactively.

Procedures for issuing a proposed letter of warning in lieu of time-off suspension and a letter of decision are intended to be the same as those for issuing a time-off suspension. The letters may be issued in lieu of either a 7- or 14-day suspension only. Unless required by statute, suspensions of more than 14 days are prohibited except for indefinite suspensions referenced above.

Letters of warning in lieu of time-off suspension are equivalent to time-off suspensions as an element of past discipline and may be cited as such in future disciplinary actions.

Date	05/31/96
Effective	06/30/96
Number	EL-650-96-3
Obsoletes	N/A
Unit	EEO Compliance and Appeals

Joseph J. Mahon
Vice President
Labor Relations

CONTENTS

Policy

Implementation

Preparing a Proposed Letter and a Letter of Decision

Appeal Procedures

Retention Procedures

Exhibit 1a

Instructions for Proposed Letter of Warning in Lieu of Time-Off Suspension

Exhibit 1b

Sample Proposed Letter of Warning in Lieu of Time-Off Suspension

Exhibit 2a

Instructions for Letter of Decision for Letter of Warning in Lieu of Time-Off Suspension

Exhibit 2b

Sample Letter of Decision for Letter of Warning in Lieu of Time-Off Suspension — Headquarters and Headquarters Field Units, Including Inspection Service

Exhibit 2c

Sample Letter of Decision for Letter of Warning in Lieu of Time-Off Suspension — Field Installations



ELM 650 Nonbargaining Disciplinary, Grievance, and Appeal Procedures

ELM 651.6 Letters of Warning in Lieu of Time–Off Suspensions

651.61 Policy

651.62 Implementation

651.63 Notice

651.64 Response

651.65 Decision

651.66 Retention

ELM 54 - Employee and Labor Relations Manual

September 2023

[Transmittal Letter](#)

[Summary of Changes](#)

- [How to Use the Summary of Changes](#)

[1 Organizational Structures](#)

- [110 General Information](#)
- [120 Structures and Staffing](#)
- [130 Organizational Change Criteria](#)
- [140 Organizational Change Analysis](#)
- [150 Organizational Change](#)
- [160 Monitoring and Assessment](#)

[6 Employee Relations](#)

- [610 Employee Services](#)
- [620 Contests](#)
- [630 Reserved](#)
- [640 Employee Claims](#)
- [650 Nonbargaining Disciplinary, Grievance, and Appeal Procedures](#)
- [660 Conduct](#)
- [670 Diversity, Equal Employment Opportunity, and Prevention of Employment Discrimination](#)
- [680 Participation in Supervisory and Managerial Organizations](#)
- [690 Inventions and Patents](#)



ELM 651.6 Letters of Warning in Lieu of Time-Off Suspensions

ELM 651.61 Policy

- Letters of warning (LOW) in lieu of time-off suspensions (7 or 14 Day) replace time-off suspensions for nonbargaining employees, except when required by statute.
- Policy does not preclude USPS from placing EAS employee in an indefinite nonpay, nonduty status when there is reasonable belief the employee has committed a crime for which imprisonment may be imposed.



Management Instruction

Letters of Warning in Lieu of Time-Off Suspensions

The purpose of this instruction is to establish procedures for the use of letters of warning in lieu of time-off suspensions for nonbargaining employees. This material obsoletes *Employee and Labor Relations Manual* (ELM) 651.5 and will be incorporated in a future revision of the ELM.

Policy

Letters of warning in lieu of time-off suspensions replace time-off suspensions for nonbargaining employees, except when required otherwise by statute. In addition, this policy does not preclude management from placing a nonbargaining employee in an indefinite nonpay, nonduty status when there is reasonable cause to believe the employee has committed a crime for which a sentence of imprisonment may be imposed.

Implementation

This policy applies to all cases in which a suspension of a nonbargaining employee is contemplated but has not been initiated. The policy is not intended to be applied retroactively.

Procedures for issuing a proposed letter of warning in lieu of time-off suspension and a letter of decision are intended to be the same as those for issuing a time-off suspension. The letters may be issued in lieu of either a 7- or 14-day suspension only. Unless required by statute, suspensions of more than 14 days are prohibited except for indefinite suspensions referenced above.

Letters of warning in lieu of time-off suspension are equivalent to time-off suspensions as an element of past discipline and may be cited as such in future disciplinary actions.

Date	05/31/86
Effective	06/30/86
Number	EL-650-95-3
Obsoletes	N/A
Unit	EEO Compliance and Appeals

Joseph J. Mahon
Joseph J. Mahon
Vice President
Labor Relations

CONTENTS

Policy	
Implementation	
Preparing a Proposed Letter and a Letter of Decision	
Appeal Procedures	
Retention Procedures	
Exhibit 1a	Instructions for Proposed Letter of Warning in Lieu of Time-Off Suspension
Exhibit 1b	Sample Proposed Letter of Warning in Lieu of Time-Off Suspension
Exhibit 2a	Instructions for Letter of Decision for Letter of Warning in Lieu of Time-Off Suspension
Exhibit 2b	Sample Letter of Decision for Letter of Warning in Lieu of Time-Off Suspension — Headquarters and Headquarters Field Units, Including Inspection Service
Exhibit 2c	Sample Letter of Decision for Letter of Warning in Lieu of Time-Off Suspension — Field Installations



ELM 651.6 Letters of Warning in Lieu of Time–Off Suspensions

ELM 651.62 Implementation

Letters of warning in lieu of time-off suspensions may be issued in lieu of either 7-day or 14-day time-off suspension only.

Letters of warning in lieu of time-off suspensions are equivalent to time-off suspensions.

Suspensions of more than 14-days are prohibited, except for indefinite suspensions referenced in 651.7.

Letters of warning in lieu of time-off suspensions may be cited in future disciplinary actions, if still active in an employees' eOPF.

NAPS Note: There is no progressive discipline for EAS.



Example

Receiving ELM 650 Disciplinary Action

How it can start?

Scenario: *EAS employee (NAPS member) is directed by their manager to attend an Investigative Interview (I&I) about their attendance.*

Now What?



650 Nonbargaining Disciplinary, Grievance, and Appeal Procedures

Note: ELM 665.15 & 665.3

ELM 665.15 Obedience to Orders

Employees must obey the instructions of their supervisors. If an employee has reason to question the propriety of a supervisor's order, the individual must nevertheless carry out the order and may immediately file a protest in writing to the official in charge of the installation or may appeal through official channels.

ELM 665.3 Cooperation in Investigations

Employees must cooperate in any postal investigation,

- *Investigated Interview (I & I)*
- *Office of the Inspector General (OIG) investigations.*



650 Nonbargaining Disciplinary, Grievance, and Appeal Procedures

ELM 651 Disciplinary and Emergency Procedures

EAS Have A Right To:

651.2 Representation

Subject to prohibitions regarding Executive and Administrative Schedule (EAS)/Craft representation, employees have free choice of representation.

Representatives designated by employees, if postal employees and if otherwise in a duty status, are granted a reasonable amount of official time to respond to notices of proposed disciplinary action, to prepare for and represent the employee at a hearing held in accordance with 652.24, and/or to represent an employee who has appealed a letter of warning or emergency placement in a non-duty status in accordance with 652.4.

Employees covered under these provisions may request representation during investigative questioning if the employee has a reasonable belief disciplinary action may ensue.



When Called into an Investigative Interview (I&I)

Member's First Actions

1. Do **NOT** go alone to the Investigative Interview (I&I).
2. Call NAPS Branch President or Branch officer immediately to request representation at I&I per ELM 651.2
3. Talk prior with NAPS representative prior to attending I&I.
4. Discuss pending I&I issue (if known)
5. Develop a strategy for handling and answering questions
6. Establish a private code (word) for the member to stop overtalking or to take a break to confer outside the I&I.



Action by NAPS Representative

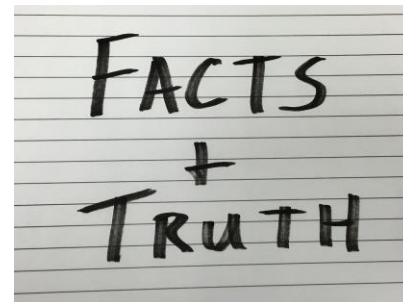
Verify EAS employee is a NAPS Member by checking current branch membership report (DCO) or call NAPS HQ.



During Investigative Interview (I&I)

How the member acts and responds matters!

- Be professional – Not Defensive – Don't make it Personal!
- Ask the reason for the I&I (*Attendance, delayed mail, credit card misuse, scanning integrity, sexual harassment, etc.*)
- Ask what are the charges
- Keep answers short & factual
- **DO NOT** speculate or elaborate
- If you don't recall – state you don't recall
- Ask for information that might help you remember
- Tell the truth – **DO NOT LIE!**



NAPS Note: Member and NAPS representative should take notes during Investigative Interview for later possible use!



During an Investigative Interview (I&I) Tell The Truth – **DO NOT LIE!**

“Based on my training and my experience, I _____.”

A supervisor was asked why they brought in letter carriers on overtime (OT) without prior approval?

Member’s response: *“well, we were down 6 employees, and we had a huge backlog of packages to process. So **based on my training and experience**, I acted to correct the situation.”*

What could that manager say? EAS employees are paid to make decisions based on the information they have at the time.

Sometimes, EAS are questioned and 2nd guessed about the decisions they make for the good of the USPS.

Unfortunately: Every EAS employee is one **bad decision** away from discipline. A bad decision as perceived by their Boss!



During an Investigative Interview (I&I)

Tell The Truth – **DO NOT LIE!**

By answering questions truthfully and basing it on experience and training provided by the USPS or the Lack of Training provided by the USPS the member is basically saying:

"I did my best"

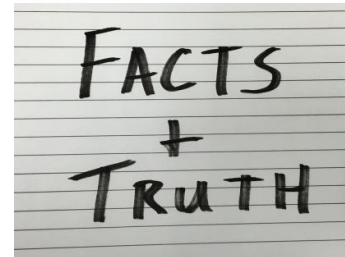
By answering questions truthfully and basing it on how the member's manager coached and mentored them or did not coach or mentor them, member is basically saying:

"I did my best"

From the EAS employee's prospective:

That is not a lie!

Member's manager is accountable to the EAS employee under ELM 651.3. Did that manager fail the EAS employee?



ELM 651.3 Nondisciplinary Corrective Measures

Accountable managers/supervisors are responsible for the direct day-to-day performance management of subordinates. The accountable manager/supervisor monitors subordinates' performance and provides appropriate resources, coaching, and feedback to the subordinates. The manager/supervisor is responsible for leading the employee to a higher level of achievement. Performance improvement should be a shared concern and effort between manager and employee. Early dialogue and guidance are critical to achieving positive results and continuance of an effective manager/employee relationship.

Investigative Interview (I&I) via **zoom**

- **Do Not** go on a **zoom** Investigative Interview alone!!!!
- Bring a NAPS Representative to **zoom**
- Ask USPS for private room and computer for NAPS Rep and Member to conduct Zoom on USPS time and property
- NAPS Rep should physically sit with Member during **zoom** I&I
- Same as In-Person I&I: Be professional - Not defensive - Ask reason for I&I, potential charges, short answers, do not speculate or elaborate, don't recall – state you don't recall, ask for information to help remember – **TAKE NOTES!!!!**
- Tell the truth – **DO NOT LIE!**
- If NAPS Rep needs time to confer with Member anytime during **zoom** I&I:
 - Inform Postal Official of time needed to confer / take a break
 - Mute **zoom** audio
 - Go off Video temporarily
 - Return to Video and Unmute to continue

zoom



Example: Receiving ELM 650 Disciplinary Action

After an Investigative Interview (I&I) Manager may:

- Thank EAS employee for their time. No discipline is issued: or
- Issue a **Letter of Warning** (LOW) per *ELM 651.5*; or
- Issue a **Proposed Letter of Warning in Lieu of Time-Off Suspension** (7 or 14 Day) per *ELM 651.6*; or
- Issue **Proposed Adverse Action** (*Removal, suspension of more than 14 days, and/or reductions in EAS level or pay*) per *ELM 651.7*.



Example

After Investigative Interview (I&I), Manager issues NAPS member a **Proposed *Letter of Warning in Lieu of 7-Day Time-Off Suspension***

Charge:

Violation of ELM 511.43 Employee Responsibilities. Failure to maintain employee's assigned work schedule due to excessive unscheduled absences.

- *ELM 511.43: Employees are expected to maintain their assigned schedule and must make every effort to avoid unscheduled absences. In addition, employees must provide acceptable evidence for absences when required.*

NOW WHAT?



What is in a Proposed Letters of Warning in Lieu of Time–Off Suspension?

ELM 651.6 Letters of Warning in Lieu of Time–Off Suspensions

ELM 651.63 Notice

Normally, the employee's immediate supervisor issues a proposed letter of warning in lieu of time-off suspension, which must state:

1. Specific and detailed reasons for the letter;
2. Instructions for responding to discipline;
3. Name and title of deciding official;
4. The right of the employee or representative to review all material relied upon in issuing the discipline; and
5. When, where, and from whom the material is available.



2nd Example

NAPS member physically receives a

Proposed *Letter of Warning in Lieu of 7-Day Time–Off Suspension*

Charge:

Violation of ELM 511.43 Employee Responsibilities. Failure to maintain employee's assigned work schedule due to excessive unscheduled absences.

- *ELM 511.43: Employees are expected to maintain their assigned schedule and must make every effort to avoid unscheduled absences. In addition, employees must provide acceptable evidence for absences when required.*

WHAT IS NEXT?



650 Nonbargaining Disciplinary, Grievance, and Appeal Procedures

ELM 651.6 Letters of Warning in Lieu of Time–Off Suspensions

651.61 Policy

651.62 Implementation

651.63 Notice

651.64 Response (aka Appeal)

651.65 Decision

651.66 Retention

ELM 54 - Employee and Labor Relations Manual

September 2023

Next >

[Transmittal Letter](#)

[Summary of Changes](#)

- [How to Use the Summary of Changes](#)

[1 Organizational Structures](#)

- [110 General Information](#)
- [120 Structures and Staffing](#)
- [130 Organizational Change Criteria](#)
- [140 Organizational Change Analysis](#)
- [150 Organizational Change](#)
- [160 Monitoring and Assessment](#)

[6 Employee Relations](#)

- [610 Employee Services](#)
- [620 Contests](#)
- [630 Reserved](#)
- [640 Employee Claims](#)
- [650 Nonbargaining Disciplinary, Grievance, and Appeal Procedures](#)
- [660 Conduct](#)
- [670 Diversity, Equal Employment Opportunity, and Prevention of Employment Discrimination](#)
- [680 Participation in Supervisory and Managerial Organizations](#)
- [690 Inventions and Patents](#)



ELM 651.6 Letters of Warning in Lieu of Time–Off Suspensions

ELM 651.64 Response

The employee and/or his or her representative **may** respond to the proposed letter of warning in lieu of time-off suspension in writing and/or in person to the deciding official (*management at a higher level of authority than the individual who issued the proposed letter of warning in lieu of time-off suspension*) **within 10 calendar days of receipt** of the discipline Response must include the name and title of the deciding official in your response.

NAPS Note: The “**Response**” is the written **Appeal**, by the NAPS member and NAPS representative, to the charges stated in *Proposed Letter of Warning in Lieu of Time–Off Suspension*.

NAPS NOTE: NAPS Member **Should** respond to
Proposed LOW in Lieu of Time–Off Suspension



ELM 650 Non-Bargaining Appeal Procedures

EAS Rights per ELM 651.2

ELM 651.2 Representation

Subject to prohibitions regarding Executive and Administrative Schedule (EAS)/Craft representation, employees have free choice of representation. Representatives designated by employees, if postal employees and if otherwise in a duty status, are granted a reasonable amount of official time to respond to notices of proposed disciplinary action, to prepare for and represent the employee at a hearing held in accordance with 652.24, and/or to represent an employee who has appealed a letter of warning or emergency placement in a non-duty status in accordance with 652.4. Employees covered under these provisions may request representation during investigative questioning if the employee has a reasonable belief disciplinary action may ensue.



Understanding and Adhering to Appeal Timelines

After receiving a Proposed Letter of Warning (LOW) in Lieu of 7 Day Time-Off Suspension

Member's Action

- Call NAPS representative immediately! **ASAP!**
- **Why? 10 Calendar Days** to Appeal Discipline
Ten (10) days includes weekends and holidays.
- Request ELM 650 Mediation (if available)
within 10 days of receipt of discipline
to stop the appeal clock.
- Have copy of Discipline for NAPS Representative
- **DO NOT Delay - Call NAPS Rep TODAY!**



Understanding and Adhering to Appeal Timelines

Scenario: Member receives a proposed Letter of Warning (LOW) in Lieu of 7-Day Time-Off Suspension and Immediately calls local NAPS President.

Action by NAPS Representative

- **Verifies NAPS Membership** – DCO or call NAPS HQ
- **Gathers NAPS Member's Information for Appeal**
 - Name, address;
 - non-postal email;
 - personal phone #;
 - USPS Title/Level and Office of domicile.
- **Have NAPS Member sign** *“Request for Representation & Release Form”*
(Employee has free choice of representation - Per ELM 651.2 Representation)
- Understands when **10-day appeal deadline** started and inquires if member has requested ELM 650 Mediation (*if offered by USPS*)
- **Best Practice** - Request written extension of appeal to Deciding Official



National Association of Postal Supervisors

Request for Representation & Release Form

I, _____, a dues paying member in good standing with the National Association of Postal Supervisors, Branch _____, request disciplinary representation from NAPS Branch _____.

On (date) _____, 20____, I was issued discipline in the form of a _____
(Letter of Warning--LOW, Letter of Warning in lieu of a seven (7) day suspension, Letter of Warning in lieu of a fourteen (14) day suspension, **adverse action -- removal, suspension of more than 14 days, furlough, or reduction in grade/pay.**)

I understand that NAPS Branch _____ reserves the right to provide representation. I also understand that Branch _____ and their elected officers nor members are not paid employees of the NAPS organization nor are they legally bound to provide representation. I further understand that NAPS Branch _____ and its officers are not lawyers or legal advisors, and I will not hold them legally or financially responsible for the results that transpire from my disciplinary case.

I agree to cooperate fully with my NAPS representative by providing him/her with factual written statements and documentation to support my disciplinary appeal. If during my disciplinary appeal process, I provide my NAPS representative or any USPS official with false written and/or verbal statements or documentation; NAPS Branch _____ may exercise their right to withdraw their representation.

My request for NAPS Branch _____ representation is voluntary and is void of duress. I reserve the right and may (verbally or in written form), at anytime during my appeal process, withdraw my request for representation from NAPS Branch _____.

(Signature of NAPS Member)

(Date)

NAPS

***“Request for
Representation & Release
Form”***

See NAPS.org

under

Members tab

Forms & Documents

Section



National Association of Postal Supervisors

Request for Representation & Release Form

I, _____, a dues paying member in good standing with the National Association of Postal Supervisors, Branch _____, request disciplinary representation from NAPS Branch _____.

On (date) _____, 20____, I was issued discipline in the form of a _____

(Letter of Warning--LOW, Letter of Warning in lieu of a seven (7) day suspension, Letter of Warning in lieu of a fourteen (14) day suspension, **adverse action -- removal, suspension of more than 14 days, furlough, or reduction in grade/pay.**)

I understand that NAPS Branch _____ reserves the right to provide representation. I also understand that Branch _____ and their elected officers nor members are not paid employees of the NAPS organization nor are they legally bound to provide representation. I further understand that NAPS Branch _____ and its officers are not lawyers or legal advisors, and I will not hold them legally or financially responsible for the results that transpire from my disciplinary case.

I agree to cooperate fully with my NAPS representative by providing him/her with factual written statements and documentation to support my disciplinary appeal. If during my disciplinary appeal process, I provide my NAPS representative or any USPS official with false written and/or verbal statements or documentation; NAPS Branch _____ may exercise their right to withdraw their representation.

My request for NAPS Branch _____ representation is voluntary and is void of duress. I reserve the right and may (verbally or in written form), at anytime during my appeal process, withdraw my request for representation from NAPS Branch _____

(Signature of NAPS Member)

(Date)



Was ELM 650 Mediation offered in Proposed Warning in Lieu of Time-Off Suspensions?

- **What gets 650 Mediation?**
 - Letters of Warning in Lieu of Time-Off Suspensions and/or Time-off Suspensions
 - Adverse Action: Suspension over 14-days, downgrades and removals
 - Not always offered by USPS, subject to circumstances



ELM 650 Mediation

652.5 Alternative Dispute Resolution

The Postal Service supports the use of the Alternative Dispute Resolution (ADR) process of mediation to address employee appeals relating to nonbargaining disciplinary actions. Participation in mediation by an appellant is voluntary.

652.51 Exceptions

Mediation may not be appropriate in cases where the charges involve egregious misconduct, criminal activity, repeated misconduct, inability to perform, and other conduct as determined by the Postal Service. Additionally, mediation may not be appropriate where the appeal concerns issues beyond the control of the Postal Service, such as the denial of Workers' Compensation benefits, retirement eligibility determinations, and similar matters adjudicated by other agencies. The determination of whether to grant mediation in a particular case is within the discretion of the Postal Service.

652.52 Mediation

Mediation programs will be implemented by area offices under guidelines issued by the manager, National EEO Compliance and Appeals Programs.

Did EAS Employee's LOW 7-Day Provide for ELM 650 Mediation?

652.5 Alternative Dispute Resolution

652.53 Mediation for Letters of Warning in Lieu of Time-off Suspensions and/or for Time-off Suspensions

An employee issued a proposed letter of warning in lieu of a time-off suspension, or a time-off suspension in Office of Inspector General cases, **may request mediation as an alternative to his/her right to respond to the deciding official as outlined in [651.64](#)**. If no resolution is reached between the employee and the proposing official as a result of the mediation, the employee may submit written responses to the proposed letter of warning in lieu of a time-off suspension within 10 calendar days of the mediation to the deciding official. The deciding official will issue a letter of decision regarding the proposed action in accordance with [651.65](#). The employee may appeal the decision pursuant to [652.3](#)

NAPS Note: If offered ELM 650 Mediation -- Highly recommend member accept and request mediation – within 10-days of receipt of discipline!



Request for **ELM 650 Mediation Form** **MUST** be requested within 10 calendar days of receipt of discipline **MUST** include copy of discipline

UNITED STATES POSTAL SERVICE®		Request for ELM 650 Mediation	
USPS Case Number (Completed by 650 Facilitator)		FMCS Case Number (Completed by 650 Facilitator)	
I. Appellant/Requester Information			
Appellant's Name (Last, First, MI)		Employee Identification Number	Home Telephone Number ()
Home Mailing Address (Include, City, State and ZIP+4)			
Facility Where You Work (City, State, ZIP+4)		Position Title	Position Level
		Office Telephone Number ()	
Pay Location	Facility Finance Number	Duty Hours (Include AM/PM)	Off Days/Nights
II. Issuing Management Official Information			
Name (Last, First, MI)		Job Title	Telephone Number ()
III. Type of Discipline Issued (Check One)			
<input type="checkbox"/> LOW in Lieu of 7-Day Suspension	<input type="checkbox"/> LOW in Lieu of 14-Day Suspension	<input type="checkbox"/> Downgrade	<input type="checkbox"/> Removal
<input type="checkbox"/> Other (Specify)			
IV. Representative Information			
Name	Telephone Number ()	Duty Hours (Include AM/PM)	Off Days/Nights
Work Location (City, State, ZIP+4)		Position Title	Representative Organization
V. Request for Mediation (with Discipline Attached)			
<p>1) I, _____, am voluntarily requesting that the disciplinary action issued to me on _____ be mediated before a mediator appointed by the Federal Mediation and Conciliation Service.</p> <p>2) I understand that by requesting mediation I am not forgoing any appeal rights granted by section 650 of the Employee and Labor Relations Manual (ELM). Rather, if mediation does not result in a resolution of the issue, I will still have the right to appeal the issuance of this discipline through the traditional appeal process afforded by section 650 of the ELM.</p> <p>3) I understand that this form (or written request) and a copy of the discipline must be sent within ten (10) calendar days from my receipt of an applicable disciplinary action to the ELM 650 Mediation Facilitator, Manager EEO Compliance and Appeals, located in my region. Employees at Postal Service Headquarters and Headquarters Filed Units and employees of the Inspection Service should notify the ELM 650 Facilitator at Postal Service Headquarters. The discipline must show the date it was received by me. Additionally, I will notify the management official who issued the action and the appropriate District or Area Labor Relations office of my intention to participate in ELM 650 mediation.</p>			
VI. Privacy Act Statement and Rehabilitation Act Notice			



LOW in Lieu of Time-Off Appeal **7 Day or 14 Day** Suspension

What happens at 650 Mediation? Summary

- 650 Mediation is scheduled 14-21 days after request is received.
- Federal Mediation and Conciliation Service (FMCS) appoints 3rd Party (unbiased) Mediator.
- Both parties (*NAPS member & USPS Official Issuing Discipline*) must sign “*Agreement to Mediate*” at start of mediation session.
- If disciplined is resolved at Mediation, an *Agreement Letter* is completed and signed by all parties. Matter is over.
- If no resolution at mediation, mediator signs and dates **No Agreement Letter** and gives to NAPS member.
- The **No Agreement Letter** starts a new 10 calendar day process for member to submit a written Response (Appeal) of LOW in Lieu of Time-Off Appeal to USPS to deciding official.
- **Note:** Separate ELM 650 Mediation Training to understand and the ELM 650 mediation process to seek a positive outcome.



ELM 651.6 Letters of Warning in Lieu of Time–Off Suspensions

ELM 651.64 Response

The employee and/or his or her representative may respond to the proposed letter of warning in lieu of time-off suspension **in writing and/or in person to the deciding official** (*management at a higher level of authority than the individual who issued the proposed letter of warning in lieu of time-off suspension*) **within 10 calendar days of receipt.** You must include the name and title of the deciding official in your response.

NAPS Note: Try to resolve at lowest level. Decision to settle or continue with appeal is **ALWAYS** the member's choice.



If No Settlement at ELM 650 Mediation Action by NAPS Representative & Member **Respond (Appeal) LOW 7-Day**

- Prepare a written Response (Appeal) within **ten (10)** calendar days from date of ***“No Decision”*** at ELM 650 Mediation.
- **Best Practice:** Send Deciding Official a written request for an extension to the 10-day appeal deadline. Helps ensure for a fair and reasonable due process and appeal for the member.
- Reasonable amount of official time to NAPS/Member to review documents USPS relied upon to issue discipline. Review, however, is not enough.
- Request copies from USPS of all information relied upon to support the USPS issuance of the discipline. Make copies.
- Label USPS documents received to ensure no additional documents are added after the fact.
- Request in writing other information that may be relevant in member's defense and appeal (i.e. clock ring reports, SOPs, Form 50, PS 3971's, PS 1260's, scanning reports, dispatch logs, collection schedules, etc.). Don't request more than necessary.

RECEIVED





NATIONAL ASSOCIATION OF POSTAL SUPERVISORS

Brian J. Wagner
3917 W. Cedar Hills Drive
Dunlap, IL 61525-9760
Brian4naps@aol.com * 309-253-5353

Office of
NAPS Immediate Past National President

December 11, 2023|

Postmaster Paul
USPS
456 Oak Street
Another City, IL 63633-9998

Subject: NAPS Request for Information for Pending ELM 650 STEP A Appeal

~~Supv.~~ Lee EAS Supervisor, Customer Service (EIN: 1234-5678)
Charge: Absence Without Leave (AWOL) Charge of November 22, 2023

Postmaster Paul,

Per USPS Employee and Labor Relations Manual (ELM), Section 651.2 Representation, I am Mr. ~~Supv.~~ Lee EAS Supervisor's designated National Association of Postal Supervisor (NAPS) Heart of Illinois Branch 255 representative.

Pending a formal ELM 650 STEP A Appeal of the charge of *Absent Without Leave (AWOL)* by the U.S. Postal Service against Mr. ~~Supv.~~ Lee EAS for Wednesday, November 22, 2023, NAPS is requesting the following information to prepare for this respective ELM 650 appeal and respective AWOL charge.

- Copy of the completed PS Form 3971 of ~~Supv.~~ Lee EAS, Supervisor, Customer Service (EIN: 1234-5678) used by the U.S. Postal Service to substantiate its charge of AWOL of Mr. Lee EAS for Wednesday, November 22, 2023.
- Copy of ~~Supv.~~ Lee EAS's current PS Form 3972 as of Monday, December 11, 2023.
- Copy of the USPS *Time and Attendance Collection System (TACS)* entry and/or report confirming the Postal Services' charge of AWOL against Mr. Lee EAS for Wednesday, November 22, 2023.

Please contact me at 309-253-5353 if you have any questions regarding this NAPS request for this information. Thank you for your cooperation.

Respectfully,

Brian J. Wagner

Brian J. Wagner
NAPS Immediate Past National President

cc: ~~Supv.~~ Lee EAS, Supervisor, Customer Service,
President Heart of IL NAPS Branch 255



Action by NAPS Representative and Member

Prepare Written Response (Appeal)

What Documents and Evidence are in Appeal Package?

- Copy of Discipline Issued
- Copies of any previous **live** Discipline (LOW, LOW 7/14, Adverse Action)
- Written and signed witness statements
- Written and signed statement from NAPS member.

This is the member's discipline -- they need to tell their story.

- USPS labeled documents & information USPS relied upon by to support issuance of discipline.
- Additional information requested by NAPS from USPS for member's defense in appealing disciplined (i.e. clock ring reports, SOPs, Form 50, PS 3971's, PS 1260's, scanning reports, dispatch logs, collection schedules, etc.)
- The Actual written NAPS Appeal narrative that is easy to follow and relates to the facts and extenuating circumstances.

10-1-2016

I Colon Alamos hereby swear that on approximately 21st January Rachel Buttridge rang me and during the course of that conversation she admitted to me that she had sent Kate Anne a number of text messages including one that said 'you need a belt' and one that said 'what's Colon Alamos had told her Rachel Buttridge, Sgt Kate Anne had sexually abused her daughter, she told me that she had sent numerous text messages that were intended to harass and offend Kate Anne. Also she told me that she had made several phone calls to Kate Anne. Apart from that saying I told her that Kate Anne had abused her daughter, I advised Rachel that I had said no such thing. Rachel admitted to me that she had made the allegation up in order to offend and harass the recipients Kate Anne.

John Colon Alamos



- Review current ELM Version. Verify ELM references/violations.
- **Again** -- Provide a written narrative that is easy to follow and relates to the facts and extenuating circumstances.
- Keep tone of Appeal professional. Defend, but don't be defensive,
- Avoid personal attacks, claims of discrimination (EEO). EEO separate issue.
- State the understanding of specifications. (*dates, names, locations, times, etc.*)
- State the understanding of charges and address each charge.
- Justify member's actions and explain why.
- Explain why discipline is punitive, rather than corrective.
- Reference ELM 651.3 Nondisciplinary Corrective Measures in Appeal.



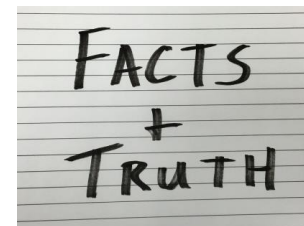
Defense Measure for Appeal

ELM 651.3 Nondisciplinary Corrective Measures

Accountable managers/supervisors are responsible for the direct day-to-day performance management of subordinates. The accountable manager/supervisor monitors subordinates' performance and provides appropriate resources, coaching, and feedback to the subordinates. The manager/supervisor is responsible for leading the employee to a higher level of achievement. Performance improvement should be a shared concern and effort between manager and employee. Early dialogue and guidance are critical to achieving positive results and continuance of an effective manager/employee relationship.

NAPS Written Appeal Strategy Continued . . .

- Express member's service history, work performance, awards, mitigating circumstances, additional training needs required, etc.
- Address Medical, Physical or Emotional Issues. (i.e. addiction, sick child/parent, cancer or other medical diagnosis, mental health, etc.)
- Refute charges with evidence, facts, USPS reports and documents, witness statements and additional NAPS information.
- If evidence is overwhelming against member for doing wrong – Acknowledge remorse, take responsibility for poor judgment, request training for rehabilitation.
- Request in Appeal to “Rescind” entire discipline.
- If there is no consideration to fully rescind discipline seek a reduction in time in eOPF. Less than 2-years.
- Seek realistic settlement in relation to the charges and facts!



Reminder

Understand and Adhere to Appeal Timeline

- Submit LOW 7-Day appeal in writing to **Deciding Official** within 10 calendar days of receipt of discipline or within 10 calendar days if **no agreement** was reached during ELM 650 Mediation.
- There is no in-person discussion with Deciding Official if discipline was mediated per ELM 652.54. (ELM 650 Mediation)
- **NAPS Note:** Confirm with Deciding Official how he/she wants to receive respective NAPS Member's written appeal -- U.S. Mail or email.
- Once NAPS submits member's Response (Appeal) within deadline -- Next comes the Deciding Official's "**Decision**" per ELM 651.65





USPS ELM 650

650 Nonbargaining Disciplinary, Grievance, and Appeal Procedures

ELM 651.6 Letters of Warning in Lieu of Time–Off Suspensions

651.61 Policy

651.62 Implementation

651.63 Notice

651.64 Response

651.65 Decision

651.66 Retention

ELM 54 - Employee and Labor Relations Manual

September 2023

[Next >](#)

[Transmittal Letter](#)

[Summary of Changes](#)

- [How to Use the Summary of Changes](#)

[1 Organizational Structures](#)

- [110 General Information](#)
- [120 Structures and Staffing](#)
- [130 Organizational Change Criteria](#)
- [140 Organizational Change Analysis](#)
- [150 Organizational Change](#)
- [160 Monitoring and Assessment](#)

[6 Employee Relations](#)

- [610 Employee Services](#)
- [620 Contests](#)
- [630 Reserved](#)
- [640 Employee Claims](#)
- [650 Nonbargaining Disciplinary, Grievance, and Appeal Procedures](#)
- [660 Conduct](#)
- [670 Diversity, Equal Employment Opportunity, and Prevention of Employment Discrimination](#)
- [680 Participation in Supervisory and Managerial Organizations](#)
- [690 Inventions and Patents](#)

ELM 651.6 Letters of Warning in Lieu of Time–Off Suspensions:

651.65 Decision

The deciding official, after consideration of the facts of the case and the employee's response, issues a letter of decision after the expiration of the 10–calendar day period for reply, but no later than 30 calendar days following the receipt of the employee's response.

The decision letter will advise the employee that he or she may appeal in writing within 15 calendar days of receipt of the letter of decision.



ELM 651.6 Letters of Warning in Lieu of Time–Off Suspensions **ELM 651.65 Decision - Delayed**

- What if Deciding Official doesn't issue the “**Letter of Decision**” within 30 days?
- What if it has been 60 days with no *Letter of Decision*?
- What should NAPS member or Representative do?

Possible Options:

- Contact Deciding Official once to see when *Letter of Decision* will be issued.
- Don't contact Deciding Official. The LOW in Lieu of Time-Off Suspension is “Proposed”. Therefore, it is **NOT** official or effective until the Letter of Decision is received.
- No Letter of Decision, the LOW-7 Day can't be used with other discipline
- Constantly contacting Deciding Official at member's request can lead to a negative decision letter and consequences for the member.
- **The Caveat:** “Watch what you ask for” You may get an answer you don't like when you push, pressure or “Poke the Bear” of the USPS to demand an answer.
- Sometimes best to let a “sleeping dog lie”. Out of site –out of mind!
- Do you really want to ‘Poke’ the Bear???



ELM 651.6 Letters of Warning in Lieu of Time–Off Suspensions: **ELM 651.65 Decision**

- Deciding Official issues written “Letter of Decision” no later than 30 days after receiving written appeal from NAPS and Member.
- **Decision Letter:** If member doesn’t like results in *Letter of Decision* they may file seek an **ELM 650 Review** of the decision.
- An **ELM 650 Review** is submitted by NAPS within 15-days from receipt of Decision Letter to the respective USPS Area HR Manager.
- The **ELM 650 Review** is based solely on the record.
- NAPS submits a copy of original appeal and supporting documents with a brief Executive Summary stating why NAPS/Member is seeking an ELM 650 Review by the USPS HR Area.
- There is no opportunity for NAPS or member to meet with Area HR reviewing official during their review period.
- **ELM 650 Review** decision is due within 30 Days to NAPS/Member. The ELM 650 Review decision is final. There are no more member Appeals.



Letter of Warning in Lieu of Time–Off Suspension Appeal Summary

- LOW 7-Day or 14 Day is issued to member.
- **10 Days:** NAPS member has **10 days** to file an Appeal of LOW 7-day or request ELM 650 Mediation if offered. No resolve at mediation new 10-day appeal timeline starts.
- **30 Days:** Deciding Official has **30 Days** from the date of NAPS/Members Appeal to issue a *Letter of Decision*.
- **15 Days:** After member receives *Letter of Decision (LOD)*, has **15-days** to request an ELM 650 Review to Area HR Manager or USPS HQ Labor Relations.
- **30 Days:** Once an ELM 650 Review has been received, Area/USPS HR has 30 days to provide an ELM 650 Review decision to NAPS/Member. There decision is final.
- **ZERO:** There are NO more NAPS/Member appeals after the ELM 650 Review.
- **NAPS Note:** Confirm with Deciding Official how he/she wants to receive respective NAPS Member's written appeal -- U.S. Mail or email.



ELM 650 Nonbargaining Disciplinary, Grievance, and Appeal Procedures

Example ELM 650 Appeal Timeline for LOW 7-Day

- **August 1: 7-Day LOW** issued to NAPS member. (10 days to file appeal if no ELM 650 Mediation is offered) New 10 days starts after “no resolution” at 650 Mediation.
- **August 11:** Member submits written LOW-7 Day appeal to Next Higher-Level Manager (Deciding Official). Unless 650 Mediation is held.
- **September 10:** On 30th day, Deciding Official issues “Letter of Decision” back to NAPS Member. On or before the 15th day from receiving “Letter of Decision”, NAPS/Member must file for an ELM 650 Review
- **September 25:** Member files for an ELM 650 Review on the 15th day from receiving “Letter of Decision.
- **September 25 to October 24:** Reviewing official must reply in writing and state the disposition of the employee’s request within 30-days from receipt of request for ELM 650 Review. This reply is final.
- Forgoing any agreed upon extensions, it should take no more than **85** days from the date discipline was initially issued to receive a final ELM 650 Review decision.



ELM 651.6 Letters of Warning in Lieu of Time–Off Suspensions

ELM 651.66 Retention

Letters of warning in lieu of time–off suspensions remain in the employee’s OPF and/or eOPF for two (2) years unless otherwise resolved or cited in subsequent disciplinary action.



NAPS Note: Contact Shared Services to have disciplined removed after final decision timeframe has expired or sooner. Submit PS Form 8043 to request removal of discipline.



ELM 650 Non-Bargaining Appeal Procedures

Appeal Process for EAS

Adverse Action

- *Removal*
- *Suspension without pay > 14 days*
- *Reductions in grade or pay*



USPS ELM

650 Nonbargaining Disciplinary, Grievance, and Appeal Procedures

651.7 Adverse Actions

651.71 Definition

651.72 Policy

651.73 Notice

651.74 Response

651.75 Decision

651.76 Duty Status

651.77 Exceptions to Thirty–Day Notice

ELM 54 - Employee and Labor Relations Manual
September 2023

[Transmittal Letter](#)

[Summary of Changes](#)

- [How to Use the Summary of Changes](#)

[1 Organizational Structures](#)

- [110 General Information](#)
- [120 Structures and Staffing](#)
- [130 Organizational Change Criteria](#)
- [140 Organizational Change Analysis](#)
- [150 Organizational Change](#)
- [160 Monitoring and Assessment](#)

[6 Employee Relations](#)

- [610 Employee Services](#)
- [620 Contests](#)
- [630 Reserved](#)
- [640 Employee Claims](#)
- [650 Nonbargaining Disciplinary, Grievance, and Appeal Procedures](#)
- [660 Conduct](#)
- [670 Diversity, Equal Employment Opportunity, and Prevention of Employment Discrimination](#)
- [680 Participation in Supervisory and Managerial Organizations](#)
- [690 Inventions and Patents](#)



ELM 651.7 Adverse Actions

651.71 Definition

Adverse actions are defined as discharges, suspensions of more than 14 days, **furloughs for 30 days or less**, and/or reductions in grade or pay.

651.72 Policy

Adverse action may be taken against an employee:

1. Because lesser measures have not resulted in the correction of deficiencies in behavior or performance;
2. Because of the gravity of the offense; or
3. For nondisciplinary reasons, such as the correction of a position misranking.

NAPS Note: There is no progressive discipline for EAS.



Example

Receiving Disciplinary Action

How it can start?

Scenario: *EAS employee (NAPS member) is directed by their manager to attend an Investigative Interview (I&I) about their attendance.*

Now What?



650 Nonbargaining Disciplinary, Grievance, and Appeal Procedures

ELM 651 Disciplinary and Emergency Procedures

EAS Have A Right To:

651.2 Representation

Subject to prohibitions regarding Executive and Administrative Schedule (EAS)/Craft representation, employees have free choice of representation.

Representatives designated by employees, if postal employees and if otherwise in a duty status, are granted a reasonable amount of official time to respond to notices of proposed disciplinary action, to prepare for and represent the employee at a hearing held in accordance with 652.24, and/or to represent an employee who has appealed a letter of warning or emergency placement in a non-duty status in accordance with 652.4.

Employees covered under these provisions may request representation during investigative questioning if the employee has a reasonable belief disciplinary action may ensue.



When Called into an Investigative Interview (I&I)

Member's First Actions

1. Do **NOT** go alone to the Investigative Interview (I&I).
2. Call NAPS Branch President or Branch officer immediately to request representation at I&I per ELM 651.2
3. Talk prior with NAPS representative prior to attending I&I.
4. Discuss pending I&I issue (if known)
5. Develop a strategy for handling and answering questions
6. Establish a private code (word) for the member to stop overtalking or to take a break to confer outside the I&I.



Action by NAPS Representative

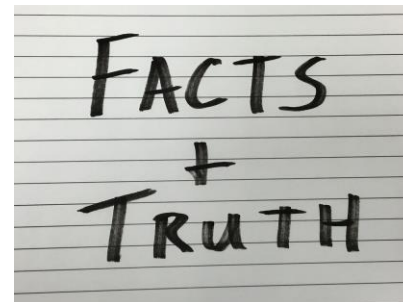
Verify EAS employee is a NAPS Member by checking current branch membership report (DCO) or call NAPS HQ.



During Investigative Interview (I&I)

How the member acts and responds matters!

- Be professional – Not Defensive – Don't make it Personal!
- Ask the reason for the I&I (*Attendance, delayed mail, credit card misuse, scanning integrity, sexual harassment, etc.*)
- Ask what are the charges
- Keep answers short & factual
- **DO NOT** speculate or elaborate
- If you don't recall – state you don't recall
- Ask for information that might help you remember
- Tell the truth – **DO NOT LIE!**



NAPS Note: Member and NAPS representative should take notes during Investigative Interview for later possible use!



During an Investigative Interview (I&I) Tell The Truth – **DO NOT LIE!**

“Based on my training and my experience, I _____.”

A supervisor was asked why they brought in letter carriers on overtime (OT) without prior approval?

Member’s response: *“well, we were down 6 employees, and we had a huge backlog of packages to process. So **based on my training and experience**, I acted to correct the situation.”*

What could that manager say? EAS employees are paid to make decisions based on the information they have at the time.

Sometimes, EAS are questioned and 2nd guessed about the decisions they make for the good of the USPS.

Unfortunately: Every EAS employee is one **bad decision** away from discipline. A bad decision as perceived by their Boss!



During an Investigative Interview (I&I)

Tell The Truth – **DO NOT LIE!**

By answering questions truthfully and basing it on experience and training provided by the USPS or the Lack of Training provided by the USPS the member is basically saying:

"I did my best"

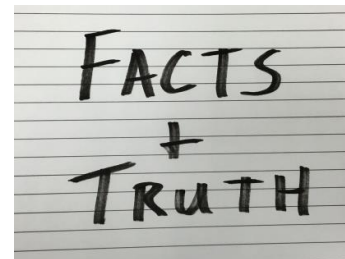
By answering questions truthfully and basing it on how the member's manager coached and mentored them or did not coach or mentor them, member is basically saying:

"I did my best"

From the EAS employee's prospective:

That is not a lie!

Member's manager is accountable to the EAS employee under ELM 651.3. Did that manager fail the EAS employee?



ELM 651.3 Nondisciplinary Corrective Measures

Accountable managers/supervisors are responsible for the direct day-to-day performance management of subordinates. The accountable manager/supervisor monitors subordinates' performance and provides appropriate resources, coaching, and feedback to the subordinates. The manager/supervisor is responsible for leading the employee to a higher level of achievement. Performance improvement should be a shared concern and effort between manager and employee. Early dialogue and guidance are critical to achieving positive results and continuance of an effective manager/employee relationship.

Investigative Interview (I&I) via **ZOOM**

- **Do Not** go on a **ZOOM** Investigative Interview alone!!!!
- Bring a NAPS Representative to **ZOOM**
- Ask USPS for private room and computer for NAPS Rep and Member to conduct Zoom on USPS time and property
- NAPS Rep should physically sit with Member during **ZOOM** I&I
- Same as In-Person I&I: Be professional - Not defensive - Ask reason for I&I, potential charges, short answers, do not speculate or elaborate, don't recall – state you don't recall, ask for information to help remember – **TAKE NOTES!!!!**
- Tell the truth – **DO NOT LIE!**
- If NAPS Rep needs time to confer with Member anytime during **ZOOM** I&I:
 - Inform Postal Official of time needed to confer / take a break
 - Mute **ZOOM** audio
 - Go off Video temporarily
 - Return to Video and Unmute to continue

zoom



Example: Receiving ELM 650 Disciplinary Action

After an Investigative Interview (I&I) Manager may:

- Thank EAS employee for their time. No discipline is issued: or
- Issue a **Letter of Warning** (LOW) per *ELM 651.5*; or
- Issue a **Proposed Letter of Warning in Lieu of Time-Off Suspension** (7 or 14 Day) per *ELM 651.6*; or
- Issue **Proposed Adverse Action** (*Removal, suspension of more than 14 days, and/or reductions in EAS level or pay*) per *ELM 651.7*.



After an Investigative Interview (I&I) Manager may:

- “Thank you” for your time and not issue discipline; or
- Issue a **Letter of Warning** (LOW) per *ELM 651.5*; or
- Issue a **Proposed Letter of Warning in Lieu of Time-Off Suspension** (7 or 14 Day) per *ELM 651.6*; or
- Issue Noticed of Proposed **Adverse Action** (*Removal, suspension of more than 14 days, and/or reductions in EAS level or pay*) per *ELM 651.7*.



Example

Scenario: After Investigative Interview (I&I), Manager issues NAPS member a ***Notice of Proposed Notice Of Removal***

Charge:

Violation of ELM 511.43 Employee Responsibilities. Failure to maintain employee's assigned work schedule due to excessive unscheduled absences.

- *ELM 511.43: Employees are expected to maintain their assigned schedule and must make every effort to avoid unscheduled absences. In addition, employees must provide acceptable evidence for absences when required.*

What is in the Notice of Proposed Removal?



ELM 651.7 Adverse Actions

651.73 Notice

Normally, the employee's immediate supervisor issues a written notice of proposed adverse action.

The Postal Service may substitute as the proposing official another supervisor or manager at the same or higher level as specified herein. Such a substitution may be made by any of the following: the vice president of Labor Relations; area vice president; and area manager, Human Resources.

This Proposed Adverse Action Notice includes:

1. The action proposed, with specific and detailed reasons;
2. The instructions for responding to the notice;
3. A statement of the right of the employee or representative to review all material relied upon in proposing the action, and when and where the material is available for review; and
4. The name of the official rendering the decision.

The proposal advises the employee that a reasonable amount of official time is allowed for the preparation and presentation of a reply.

If the employee is in a duty status, the proposed action will be effected, no sooner than **30 calendar days** after the employee receives the notice.



ELM 651.7 Adverse Actions

651.76 Duty Status

- The employee, unless otherwise provided in [651.77](#), remains in a pay status, either on the job or on administrative leave, at the option of the employer, during the notice period.
- The notice period must be at least 30 calendar days, unless covered by [651.77](#). Discharged or indefinitely suspended employees who appeal remain on the rolls in a nonpay, nonduty status until the disposition of the case through the chosen appeal procedures.
- Normally, disposition of the case would be a final decision from the MSPB or a Step I decision in an administrative [650](#) appeal.
- In cases where the MSPB has mitigated an adverse action in an initial decision and the Postal Service files an appeal, the employee's status will be handled in accordance with MSPB regulations regarding interim relief.



ELM 651.7 Adverse Actions

651.77 Exceptions to Thirty-Day Notice

When there is reasonable cause to believe an employee is guilty of a crime for which a sentence of imprisonment may be imposed, the advance notice before effecting the adverse action may be reduced to no less than 7 calendar days. At the expiration of the reduced notice period, the decision is issued at once. If the decision is to suspend the employee indefinitely, the individual remains on the rolls in a nonpay, nonduty status pending a final decision or until the suspension is otherwise terminated. If the decision is to remove the employee, the individual remains on the rolls only if a timely appeal is filed.



Understanding and Adhering to Appeal Timelines

After receiving a Notice of Proposed Removal

Member's Action

- Call NAPS representative immediately!
- Have copy of Proposed Adverse Action for NAPS Representative.
- Per **ELM 652.54** Request 650 Mediation within 10 days of when Adverse Action was received.

NAPS Representative's Action

- Verifies NAPS Membership – DCO or call NAPS HQ.
- Gathers NAPS Member's Information for Appeal.
- Is aware when the 10-day appeal timeline began.
- Has member sign "*Request for Representation & Release Form*".
- Confirms member requested 650 Mediation.
- No Resolution at Mediation or No Mediation offered: Prepare written Appeal & Evidence Package with 10-day timeline.



National Association of Postal Supervisors

Request for Representation & Release Form

I, _____, a dues paying member in good standing with the National Association of Postal Supervisors, Branch _____, request disciplinary representation from NAPS Branch _____.

On (date) _____, 20____, I was issued discipline in the form of a _____
(Letter of Warning--LOW, Letter of Warning in lieu of a seven (7) day suspension, Letter of Warning in lieu of a fourteen (14) day suspension, **adverse action -- removal, suspension of more than 14 days, furlough, or reduction in grade/pay.**)

I understand that NAPS Branch _____ reserves the right to provide representation. I also understand that Branch _____ and their elected officers nor members are not paid employees of the NAPS organization nor are they legally bound to provide representation. I further understand that NAPS Branch _____ and its officers are not lawyers or legal advisors, and I will not hold them legally or financially responsible for the results that transpire from my disciplinary case.

I agree to cooperate fully with my NAPS representative by providing him/her with factual written statements and documentation to support my disciplinary appeal. If during my disciplinary appeal process, I provide my NAPS representative or any USPS official with false written and/or verbal statements or documentation; NAPS Branch _____ may exercise their right to withdraw their representation.

My request for NAPS Branch _____ representation is voluntary and is void of duress. I reserve the right and may (verbally or in written form), at anytime during my appeal process, withdraw my request for representation from NAPS Branch _____.

(Signature of NAPS Member)

(Date)

NAPS

***“Request for
Representation & Release
Form”***

See NAPS.org

under

Members tab

Forms & Documents

Section



ELM 652.5 *Adverse Action*

First Option: ELM 650 Mediation

652.54 Mediation for Adverse Actions

- Highly Recommended.
- What gets 650 Mediation?
 - Adverse Action: Suspension over 14-days, downgrades and removals

Not always offered by USPS, subject to circumstances.

652.51 Exceptions

Mediation may not be appropriate in cases where the charges involve egregious misconduct, criminal activity, repeated misconduct, inability to perform, and other conduct as determined by the Postal Service. Additionally, mediation may not be appropriate where the appeal concerns issues beyond the control of the Postal Service, such as the denial of Workers' Compensation benefits, retirement eligibility determinations, and similar matters adjudicated by other agencies. The determination of whether to grant mediation in a particular case is within the discretion of the Postal Service.



Request for **ELM 650 Mediation Form** **MUST** be requested within 10 calendar days of receipt of discipline **MUST** include copy of discipline

UNITED STATES POSTAL SERVICE®		Request for ELM 650 Mediation	
USPS Case Number (Completed by 650 Facilitator)		FMCS Case Number (Completed by 650 Facilitator)	
I. Appellant/Requester Information			
Appellant's Name (Last, First, MI)		Employee Identification Number	Home Telephone Number ()
Home Mailing Address (Include, City, State and ZIP+4)			
Facility Where You Work (City, State, ZIP+4)		Position Title	Position Level
		Office Telephone Number ()	
Pay Location	Facility Finance Number	Duty Hours (Include AM/PM)	Off Days/Nights
II. Issuing Management Official Information			
Name (Last, First, MI)		Job Title	Telephone Number ()
III. Type of Discipline Issued (Check One)			
<input type="checkbox"/> LOW in Lieu of 7-Day Suspension	<input type="checkbox"/> LOW in Lieu of 14-Day Suspension	<input type="checkbox"/> Downgrade	<input type="checkbox"/> Removal
<input type="checkbox"/> Other (Specify)			
IV. Representative Information			
Name	Telephone Number ()	Duty Hours (Include AM/PM)	Off Days/Nights
Work Location (City, State, ZIP+4)		Position Title	Representative Organization
V. Request for Mediation (with Discipline Attached)			
<p>1) I, _____, am voluntarily requesting that the disciplinary action issued to me on _____ be mediated before a mediator appointed by the Federal Mediation and Conciliation Service.</p> <p>2) I understand that by requesting mediation I am not forgoing any appeal rights granted by section 650 of the Employee and Labor Relations Manual (ELM). Rather, if mediation does not result in a resolution of the issue, I will still have the right to appeal the issuance of this discipline through the traditional appeal process afforded by section 650 of the ELM.</p> <p>3) I understand that this form (or written request) and a copy of the discipline must be sent within ten (10) calendar days from my receipt of an applicable disciplinary action to the ELM 650 Mediation Facilitator, Manager EEO Compliance and Appeals, located in my region. Employees at Postal Service Headquarters and Headquarters Filed Units and employees of the Inspection Service should notify the ELM 650 Facilitator at Postal Service Headquarters. The discipline must show the date it was received by me. Additionally, I will notify the management official who issued the action and the appropriate District or Area Labor Relations office of my intention to participate in ELM 650 mediation.</p>			
VI. Privacy Act Statement and Rehabilitation Act Notice			



ELM 651.64 Response

LOW in Lieu of Time-Off Appeal **7 Day or 14 Day**

If no resolution at 650 Mediation or Mediation not offered

- **650 Mediation - No Resolution:** NAPS Rep prepares written appeal & evidence package to support member's discipline case within 10 days from date ***"no decision"*** letter was signed at the end of 650 Mediation. *There is no in person discussion with Deciding Official if mediated (see ELM 652.54)*
- **No 650 Mediation Offered:** NAPS Rep prepares written appeal & evidence package to support member's discipline case within 10 days from date member received the discipline. (*LOW in Lieu of Time-Off Appeal 7-Day or 14-Day Suspension*).



ELM 651.7 Adverse Actions

651.74 Response

The employee or representative may respond to the notice of proposed adverse action in writing, in person, or both, to the deciding official or designee identified in the notice. The employee or representative may respond and present evidence, including affidavits, **within 10 calendar days from receipt of the notice**. The time limits for responding to a proposed adverse action may be extended by the deciding official or designee for reasonable cause.



If No Settlement at ELM 650 Mediation Action by NAPS Representative & Member **Respond (Appeal) Adverse Action**

- Prepare a written Response (Appeal) within **ten (10)** calendar days from date of ***“No Decision”*** at ELM 650 Mediation.
- **Best Practice:** Send Deciding Official a written request for an extension to the 10-day appeal deadline. Helps ensure for a fair and reasonable due process and appeal for the member.
- Reasonable amount of official time to NAPS/Member to review documents USPS relied upon to issue discipline. Review, however, is not enough.
- Request copies from USPS of all information relied upon to support the USPS issuance of the discipline. Make copies.
- Label USPS documents received to ensure no additional documents are added after the fact.
- Request in writing other information that may be relevant in member's defense and appeal (i.e. clock ring reports, SOPs, Form 50, PS 3971's, PS 1260's, scanning reports, dispatch logs, collection schedules, etc.). Don't request more than necessary.

RECEIVED





NATIONAL ASSOCIATION OF POSTAL SUPERVISORS

Brian J. Wagner
3917 W. Cedar Hills Drive
Dunlap, IL 61525-9760
Brian4naps@aol.com * 309-253-5353

*Office of
NAPS Immediate Past National President*

December 11, 2023|

Postmaster Paul
USPS
456 Oak Street
Another City, IL 63633-9998

Subject: NAPS Request for Information for Pending ELM 650 STEP A Appeal

~~Supv.~~ Lee EAS Supervisor, Customer Service (EIN: 1234-5678)
Charge: Absence Without Leave (AWOL) Charge of November 22, 2023

Postmaster Paul,

Per USPS Employee and Labor Relations Manual (ELM), Section 651.2 Representation, I am Mr. ~~Supv.~~ Lee EAS Supervisor's designated National Association of Postal Supervisor (NAPS) Heart of Illinois Branch 255 representative.

Pending a formal ELM 650 STEP A Appeal of the charge of *Absent Without Leave (AWOL)* by the U.S. Postal Service against Mr. ~~Supv.~~ Lee EAS for Wednesday, November 22, 2023, NAPS is requesting the following information to prepare for this respective ELM 650 appeal and respective AWOL charge.

- Copy of the completed PS Form 3971 of ~~Supv.~~ Lee EAS, Supervisor, Customer Service (EIN: 1234-5678) used by the U.S. Postal Service to substantiate its charge of AWOL of Mr. Lee EAS for Wednesday, November 22, 2023.
- Copy of ~~Supv.~~ Lee EAS's current PS Form 3972 as of Monday, December 11, 2023.
- Copy of the USPS *Time and Attendance Collection System (TACS)* entry and/or report confirming the Postal Services' charge of AWOL against Mr. Lee EAS for Wednesday, November 22, 2023.

Please contact me at 309-253-5353 if you have any questions regarding this NAPS request for this information. Thank you for your cooperation.

Respectfully,

Brian J. Wagner

Brian J. Wagner
NAPS Immediate Past National President

cc: ~~Supv.~~ Lee EAS, Supervisor, Customer Service,
President Heart of IL NAPS Branch 255



Action by NAPS Representative and Member

Prepare Written Response (Appeal)

What Documents and Evidence are in Appeal Package?

- Copy of Discipline Issued
- Copies of any previous **live** Discipline (LOW, LOW 7/14, Adverse Action)
- Written and signed witness statements
- Written and signed statement from NAPS member.
This is the member's discipline -- they need to tell their story.
- USPS labeled documents & information USPS relied upon by to support issuance of discipline.
- Additional information requested by NAPS from USPS for member's defense in appealing disciplined (i.e. clock ring reports, SOPs, Form 50, PS 3971's, PS 1260's, scanning reports, dispatch logs, collection schedules, etc.)
- The Actual written NAPS Appeal narrative that is easy to follow and relates to the facts and extenuating circumstances.

10-1 18-2-2006

I Color Allomas hereby swear that on approximately 21st January Rachel O'Rourke rang me and during the course of that conversation she admitted to me that she had sent Kate Anne a number of text messages including one that said 'you need a bullet' and one that said 'kill your mother'. I told her Rachel O'Rourke told Kate Anne and I signed a statement to that effect. I also told her that she had sent numerous text messages that were intended to discredit and offend Kate Anne. She also told me that she had made several phone calls to Kate Anne. Regarding the text saying 'I told her that Kate Anne should for daughter's honour Rachel O'Rourke said so such thing. Rachel admitted to me that she had made the allegation up in order to offend and discredit the recipient Kate Anne.

Sign Color Allomas



When Writing NAPS Appeal - Consider Strategy and/or include the following

- Review current ELM Version. Verify ELM references/violations.
- **Again** -- Provide a written narrative that is easy to follow and relates to the facts and extenuating circumstances.
- Keep tone of Appeal professional. Defend, but don't be defensive,
- Avoid personal attacks, claims of discrimination (EEO). EEO separate issue.
- State the understanding of specifications. (*dates, names, locations, times, etc.*)
- State the understanding of charges and address each charge.
- Justify member's actions and explain why.
- Explain why discipline is punitive, rather than corrective.
- Reference ELM 651.3 Nondisciplinary Corrective Measures in Appeal.



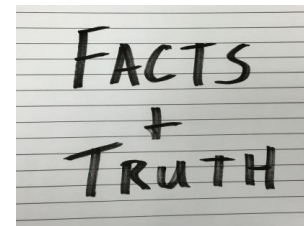
Defense Measure for Appeal

ELM 651.3 Nondisciplinary Corrective Measures

Accountable managers/supervisors are responsible for the direct day-to-day performance management of subordinates. The accountable manager/supervisor monitors subordinates' performance and provides appropriate resources, coaching, and feedback to the subordinates. The manager/supervisor is responsible for leading the employee to a higher level of achievement. Performance improvement should be a shared concern and effort between manager and employee. Early dialogue and guidance are critical to achieving positive results and continuance of an effective manager/employee relationship.

NAPS Written Appeal Strategy Continued . . .

- Express member's service history, work performance, awards, mitigating circumstances, additional training needs required, etc.
- Address Medical, Physical or Emotional Issues. (i.e. addiction, sick child/parent, cancer or other medical diagnosis, mental health, etc.)
- Refute charges with evidence, facts, USPS reports and documents, witness statements and additional NAPS information.
- If evidence is overwhelming against member for doing wrong – Acknowledge remorse, take responsibility for poor judgment, request training for rehabilitation.
- Request in Appeal to “Rescind” entire Adverse Action
- If there is no consideration to fully rescind seek a lesser charge (LOW or LOW in Lieu of Suspension) to included a reduction in time in eOPF. Less than 2-years.
- Seek realistic settlement in relation to the charges and facts!



Factors in Penalty Selection

“The Douglas Factors”

1. The nature and seriousness of the offense, and its relation to the employee's duties, position, and responsibilities, including whether the offense was intentional or technical or inadvertent, or was committed maliciously or for gain, or was frequently repeated.
2. The employee's job level and type of employment, including supervisory or fiduciary role, contacts with the public, and prominence of the position.
3. The employee's past disciplinary record.
4. The employee's past work record, including length of service, performance on the job, ability to get along with fellow workers, and dependability.
5. The effect of the offense upon the employee's ability to perform at a satisfactory level and its effect upon the supervisor's confidence in the employee's ability to perform assigned duties.
6. The consistency of the penalty with those imposed upon other employees for the same offense in like or similar circumstances.



Factors in Penalty Selection

“The Douglas Factors”

7. The consistency of the penalty with agency guidance on disciplinary actions.
(This FACTOR does NOT apply to USPS – only other Federal Agencies)
8. The notoriety of the offense or its impact upon the reputation of the agency.
9. The clarity with which the employee was on notice of any rules that were violated in committing the offense, or had been warned about the conduct in question.
10. The potential for the employee’s rehabilitation.
11. The mitigating circumstances surrounding the offense such as unusual job tensions, personality problems, mental impairment, harassment or bad faith, malice or provocation on the part of others involved in the matter.
12. The adequacy and effectiveness of alternative sanctions to deter such conduct in the future by the employee or others.

Douglas v. Veterans Administration, 5 MSPR 280 (1981). , etc.)



Reminder for Adverse Action

Understand and Adhere to Appeal Timeline

- Submit **Proposed Adverse Action** appeal in writing to **Deciding Official** within 10 calendar days of receipt of discipline or within 10 calendar days if “**No Agreement**” was reached during ELM 650 Mediation.
- There is no in-person discussion with Deciding Official if discipline was mediated per ELM 652.54. (ELM 650 Mediation)
- **NAPS Note:** Confirm with Deciding Official how he/she wants to receive respective NAPS Member’s written appeal -- U.S. Mail or email.
- Once NAPS submits member’s Response (Appeal) within deadline -- Next comes the Deciding Official’s “**Decision**” per **ELM 651.75 Decision**

“



ELM 651.7 Adverse Actions

651.75 Decision

The deciding official, who must be higher in authority than the proposing official, considers the employee's response and gives a written decision, including reasons for the decision, as soon as possible after the employee's time to respond has expired, **but no later than 60 calendar days** following the receipt of the employee's response. In field installations, the installation head or designee usually makes the decision. In other offices, the decision is made by a branch manager or above. Normally, the deciding official is the supervisor or manager of the employee's immediate supervisor. The Postal Service may substitute as the deciding official another supervisor or manager. Such a substitution may be made by any of the following: the vice president of Labor Relations; area vice president; and area manager, Human Resources. If the decision is to effect the adverse action or to modify it to a lesser penalty, the employee's appeal rights, including Merit Systems Protection Board (MSPB) appeal rights, if applicable, are stated.



USPS ELM 650 Adverse Action Appeal

Removals, Suspensions >14 Days, Furloughs or Reduction in Grade (ELM 652.2)

- Deciding Official gives their written decision no later than **60 calendar days**. (*Note 7-14 LOWs were no later than 30 days*).
- EAS stays in pay status for a minimum of 30 days from date of issue of proposed **Removal**, until ***Letter of Decision*** is received.
- ***Note:*** *Subject to ELM 651.77 Exceptions to Thirty-Day Notice.*
- Again, the Deciding Official's **Decision Letter** is the **triggering factor** for when an EAS goes into a non-pay status and can start the next appeal option.
- EAS could remain in a pay status for 60 or 90 days, six months or longer if an Adverse Action decision letter hasn't been received from the Deciding Official.
- Do you “poke the USPS bear” for a Decision Letter?



ELM 651.7 Adverse Actions

651.75 Decision Delayed

- What if Official doesn't issue the "Letter of Decision" within 60 days?
- What should NAPS member or Representative do?
- Possible Options:
 - Contact Deciding Official once to see when Letter of Decision will be issued.
 - Don't contact Deciding Official. The Adverse Action is "Proposed" and therefore is not official or effective until the Letter of Decision is received.
 - Constantly contact the Deciding Official because the member is pressuring the NAPS representative to get an answer on their discipline.
 - **The Caveat:** "Watch what you ask for" You may get an answer you don't like when you push, pressure or "Poke the Bear" of the USPS to demand an answer.
 - Sometimes best to let a "sleeping dog lie". Out of site –out of mind!



USPS ELM 650 Adverse Action Appeal

Removals, Suspensions >14 Days, Furloughs or Reduction in Grade (ELM 652.2)

When **Decision Letter** is received – EAS employee's appeal rights are stated in letter.

- Any further appeal can't continue until decision letter is received.
- Always member's decision to appeal.
- Member **MUST** contact NAPS Branch President to file an Adverse Action appeal once Letter of Decision is received.
- If Adverse Action is Upheld by Deciding Official appeal options:
 - Appeal to Merit Systems Protection Board (MSPB)
 - Appeal via ELM 650 Hearing through USPS VP Labor Relations
- Recommend MSPB if EAS qualifies per labor law.
- NAPS Disciplinary Defense Fund (DDF) available for either MSPB or 650 Hearing (*if member qualifies with NAPS*)



MERIT SYSTEMS PROTECTION BOARD APPEAL

USPS Related MSPB Eligibility

- Must be an Adverse Action
- Postal Service supervisors and managers, and Postal Service employees engaged in personnel work (other than those in nonconfidential clerical positions), who have completed one year of current continuous service in the same or similar positions

Need to understand:

- Craft employee promoted to EAS Supervisor
(1-year continuous service)
- Supervisor promoted to Postmaster (SCS to Postmaster/Mgr.)
(New 1-year continuous service)
- Supervisor promoted to Manager (SDO to MDO)
(New 1-year continuous service)
- Non-Supervisory EAS: 1-year of current continuous service and must be Veteran Preference Eligible





What Does a NAPS Officer Do When . . .

IT IS NECESSARY TO FILE FOR THE NAPS DISCIPLINARY DEFENSE FUND (DDF)

- Verify Member's NAPS DDF Eligibility
- Must have been a NAPS member within 60 days from the effective date of promotion
- Must have been a member at least 90 days prior to the proposed action

Purpose of NAPS Disciplinary Defense Fund (DDF)

To appeal Adverse Actions involving USPS HQ 650 Hearing or MSPB (removals, reductions in grade, debt collection, suspensions >14 without pay) and ELM 450 Debt Collection



NAPS Disciplinary Defense Fund Representation Request Form

DDF Applicant Name: _____

SS#: _____

Office: _____

Branch: _____

Work Phone: () _____

Home Phone: () _____

Date of Notice of Proposed Action
or Notice of Debt Determination: _____Date of Letter of Decision or
Notice of Involuntary Offset: _____

I request representation from the NAPS Disciplinary Defense Fund (DDF). Representation will be provided by Labor Relations Admin Group, LLC. The representative provided may not be an attorney. The DDF covers fees and expenses up to \$3,500 and all travel costs.

If fees or expenses incurred for my defense are expected to exceed the \$3,500 limit, Labor Relations Admin Group, LLC will notify me, in advance. No additional fees or expenses will be incurred for my representation without my authorization. If I do authorize additional fees and expenses, I will be personally liable to the provider for these additional expenses.

In the event the MSPB should award any payment for my legal fees, it is understood that the monies will be used to reimburse the NAPS DDF for monies expended for my representation by Labor Relations Admin Group, LLC to the extent possible under the award.

NOTE: I have been a member of NAPS since: Month _____ Year _____
If you have been a NAPS members less than 90 days from the date of the proposed action, you should supply a statement that you signed a NAPS membership application within 30 days of your promotion from the craft.

60 days of promotion from the craft not 30days

I understand that should I seek representation through any means other than the NAPS DDF at any time, I will, in effect, discharge the National Association of Postal Supervisors and Labor Relations Admin Group, LLC of any further obligation regarding my case. Furthermore, I understand that I will have to bear the cost and consequence of any outcome resulting from this action.

Signature of Member _____

Signature of Branch President _____

Date _____

Date _____

Send this signed form and a copy of the adverse action file by **Express Mail** to:

Labor Relations Admin Group, LLC
 PO Box 25822
 Brooklyn, NY 11202

A copy of this completed DDF form MUST be sent to NAPS Executive Vice President at NAPS HQ
 NAPS HQ, 1727 King St., STE 400, Alexandria, VA 22314

Adverse Action MSPB Appeal

Branch Officer Completes MSPB Form 185

There are several editions of MSPB Form 185. The instructions should be applicable for all editions.

PART 1 Appellant and Agency Information: fill in as much as you can; if you don't know the answer, leave it blank.

PART 2 Agency Personnel Action or Decision (non-retirement): fill in as much as you can; if you don't know the answer, leave it blank. Also, leave Box 16 blank.

PART 3 Not applicable. Leave blank.

PART 4 Designation of Representative: Appellant's signature and date only. NAPS DDF Provider will fill in the name of the NAPS advocate that will be assigned to member's case

PART 5 Certification: Appellant's signature and date.



PART 1 - Appellant and Agency Information**Everyone must complete Part 1.***Please type or print legibly.*

1. Name (last, first, middle initial)

Last First M. Initial

Please list your first name as it appears in your official personnel records. For example, if your first name is "William" on your official personnel records, please list it that way on the appeal form, not "Bill" or "Willy."

2. Present address (number and street, city, state, and ZIP code)

You must promptly notify the Board in writing of any change in your mailing address while your appeal is pending.Address: City: State: ZIP Code:

3. Telephone numbers (include area code) and email address

You must promptly notify the Board in writing of any change in your telephone number(s) or email address while your appeal is pending.Cell: Home: Work: Fax: Email Address:

4. Name and address of the agency that took the action or made the decision you are appealing (include bureau or division, street address, city, state and ZIP code)

Agency Name: Bureau: Address: Phone Number: City: State: ZIP Code:

5. Your Federal employment status at the time of the action or decision you are appealing:

☐ Permanent ☐ Temporary ☐ Term
☐ Seasonal ☐ Applicant ☐ Retired
☐ None

6. Type of appointment (if applicable):

☐ Competitive ☐ Excepted
☐ Postal Service ☐ SES
☐ Other (describe):

7. Your position, title, grade, and duty station at the time of the action or decision you are appealing (if applicable):

Occupational Series or Cluster: Position Title:
Grade or Pay Band: Duty Station:
8. Are you entitled to veteran's preference?
See [5 U.S.C. § 2108](#).☐ Yes ☐ No

9. Length of Federal service (if applicable):

 Years Months

10. Were you serving a probationary, trial, or initial service period at the time of the action or decision you are appealing?

☐ Yes ☐ No11. **HEARING:** You may have a right to a hearing before an administrative judge. If you elect not to have a hearing, the administrative judge will make a decision on the basis of the submissions of the parties. Do you want a hearing?☐ Yes ☐ No**PART 1****Appellant and Agency Information:**

fill in as much as you can; **if you don't know the answer, leave it blank.**

MSPB Page 3

**PART 2 - Agency Personnel Action or Decision (non-retirement)**

Complete this part if you are appealing a Federal agency personnel action or decision other than a decision directly addressing your retirement rights or benefits. This includes certain actions that might not otherwise be appealable to the Board: individual right of action (IRA) appeals under the Whistleblower Protection Act (WPA); appeals under the Uniformed Services Employment and Reemployment Rights Act (USERRA); or appeals under the Veterans Employment Opportunities Act (VEOA). An explanation of these three types of appeals is provided in **Appendix A**.

12. Check the box that best describes the agency **personnel action or decision** you are appealing. (If you are appealing more than one action or decision, check each box that applies.)

- ☐ Removal (termination after completion of probationary or initial service period)
- ☐ Termination during probationary or initial service period
- ☐ Reduction in grade, pay, or band
- ☐ Suspension for more than 14 days
- ☐ Failure to restore/reemploy/reinstate or improper restoration/reemployment/reinstatement
- ☐ Negative suitability determination

- ☐ Involuntary resignation
- ☐ Involuntary retirement
- ☐ Denial of within-grade increase
- ☐ Furlough of 30 days or less
- ☐ Separation, demotion or furlough for more than 30 days by reduction in force (RIF)
- ☐ Other action (describe):

13. Date you received the agency's final decision letter (if any) (MM/DD/YYYY):

14. Effective date (if any) of the agency action or decision (MM/DD/YYYY):

15. Prior to filing this appeal, did you and the agency mutually agree in writing to try to resolve the matter through an alternative dispute resolution (ADR) process?

☐ Yes (*attach a copy of the agreement*)

☐ No

16. Explain briefly why you think the agency was wrong in taking this action, including whether you believe the agency engaged in harmful procedural error, committed a prohibited personnel practice, or engaged in one of the other claims listed in **Appendix A**. **Attach the agency's proposal letter, decision letter, and SF-50, if available.** Attach additional sheets if necessary (bearing in mind that there will be later opportunities to supplement your filings).

Box 16: Leave this section blank!

PART 2 Agency Personnel Action or Decision (non-retirement): fill in as much as you can; if you don't know the answer, leave it blank. Also, leave Box 16 blank.

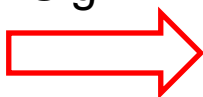
PART 3 Not applicable. Leave blank.

MSPB Page 4

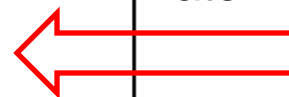


PART 4 - Designation of Representative	
<p>26. Has an individual or organization agreed to represent you in this proceeding before the Board? (You may designate a representative at any time. However, it is unlikely that the appeals process will be delayed for reasons related to obtaining or maintaining representation. Moreover, you must promptly notify the Board in writing of any change in representation.)</p> <p><input type="checkbox"/> Yes (complete the information below and sign) <input type="checkbox"/> No</p>	
<p>DESIGNATION:</p> <p>"I hereby designate _____ to serve as my representative during the course of this appeal. I understand that my representative is authorized to act on my behalf. In addition, I specifically delegate to my representative the authority to settle this appeal on my behalf. I understand that any limitation on this settlement authority must be filed in writing with the Board."</p>	
<p>Representative's address (number and street, city, state and ZIP code)</p> <p>Address: _____</p> <p>City: _____</p> <p>State: _____ ZIP Code: _____</p>	<p>Representative's telephone numbers (include area code) and email address</p> <p>Office: _____</p> <p>Fax: _____ Other: _____</p> <p>Email Address: _____</p>
<p align="center">SIGN BELOW TO MAKE YOUR DESIGNATION OF REPRESENTATIVE EFFECTIVE</p> <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <p>_____</p> <p>Appellant's Signature</p> </div> <div style="width: 45%;"> <p>_____</p> <p>Date (MM/DD/YYYY)</p> </div> </div>	

Sign



Date

**MSPB Page 7**

PART 4 Designation of Representative:

Appellant's signature and date only. NAPS DDF Provider will fill in the name of the NAPS advocate that will be assigned to member's case.

PART 5 - Certification

27. I certify that all of the statements made in this form and any attachments are true, complete, and correct to the best of my knowledge and belief.

Sign →

Signature of Appellant or Representative

Date (MM/DD/YYYY)

Date ←

MSPB Page 8

PART 5 Certification: Appellant's signature and date, **ONLY.**



DDF Provider Merit System Protection Board (MSPB)

Appeal Instructions

To file an MSPB appeal, member/local NAPS Rep needs the following information/documents:

1. NAPS Disciplinary Defense Fund Representation Request Form
2. MSPB Form 185 to be completed (see previous slide)
3. Copy of the Letter of Decision
4. Copy of the Notice of Proposed Removal

Send documents listed above to DDF Provider – **ASAP!**

DO NOT DELAY

For MSPB appeals, DDF Provider **MUST** file member's MSPB Appeal to Court within **30 days** from the effective date of Letter of Decision to file MSPB appeal.



Submitting MSPB Appeal to DDF Provider

Options to send the case file to DDF Provider

- **Priority Mail Express:**

Labor Relations Admin Group LLC
PO Box 25822
Brooklyn, NY 11202

- **Email:** LRAG.PO@GMAIL.COM

- **Fax Number:** (718) 425-9873

NOTE: If case file is sent Priority Mail Express -- email the USPS tracking number to LRAG.PO@GMAIL.COM.

DO NOT send copies of the entire case file

Reminder: For MSPB appeals, only have **30 days** from the effective date stated in Letter of Decision to file MSPB appeal.



ELM 650 Nonbargaining Disciplinary, Grievance, and Appeal Procedures

Timeline for Adverse Action Removal Appeal to MSPB

- **August 1: Notice of Proposed Removal** issued to NAPS member. (*10 days to file appeal if no ELM 650 Mediation is offered*)
 - New 10-days starts after “no resolution” at 650 Mediation.
- **August 11:** Member submits written appeal of Removal to next higher-level Manager (Deciding Official). *Within 10-days from issuance or after ELM 650 Mediation if held and not resolved.*
- **October 10:** On 60th day, Deciding Official issues “Letter of Decision”. Decision is to remove NAPS Member on Oct 10.
- **November 9:** File for MSPB via NAPS DDF within **30 days** from the effective date stated in ***Letter of Decision***. Effective date is October 10.



DDF Provider's Appeal Instructions ELM 650 Hearing

DO NOT DELAY

Under ELM 652, DDF Provider **MUST** file member's 650 Hearing appeal within **15 days** from the Letter of Decision's effective date.

To file an ELM 650 Hearing Appeal, NAPS DDF Provider needs the following information & documents:

1. NAPS Disciplinary Defense Fund Representation Request Form
2. Copy of the Letter of Decision
3. Copy of the Notice of Proposed Removal
4. Must have member's name, home address, phone number, and personal email address
5. Must have member's work address

Send documents listed above to DDF Provider – **ASAP!**

Do **NOT** send copies of the entire case file (***except as indicated above***).

The assigned advocate will be advised to contact the NAPS Rep to forward the member's entire case file to him/her.



Submitting ELM 650 Hearing Appeal to DDF Provider

Options to send the case file to DDF Provider

- **Priority Mail Express:**

Labor Relations Admin Group LLC
PO Box 25822
Brooklyn, NY 11202

- **Email:** LRAG.PO@GMAIL.COM

- **Fax Number:** (718) 425-9873

Under **652.2 Appeal of Adverse Actions (650 Hearing)**

Only have **15 days** from the effective date to file appeal.

If sending case file and documents to DDF Provider via Priority Mail Express: email USPS tracking number to LRAG.PO@GMAIL.COM.



ELM 650 Nonbargaining Disciplinary, Grievance, and Appeal Procedures

Timeline for Adverse Action Removal Appeal to 650 Hearing

- **August 1: Notice of Proposed Removal** issued to NAPS member. (*10 days to file appeal if no ELM 650 Mediation is offered*)
 - New 10-days starts after “no resolution” at 650 Mediation.
- **August 11:** Member submits written appeal of Removal to Next Higher-Level Manager (Deciding Official). Unless 650 Mediation is held.
- **October 10:** On 60th day, Deciding Official issues “Letter of Decision”. Decision is to remove NAPS Member on Oct 10.
- **October 25:** File for 650 Hearing via NAPS DDF within **15-days** from the effective date as stated in **Letter of Decision**. Effective date is October 10.



What if the Letter of Decision reduces Adverse Action to a lesser charge?

(LOW or LOW-7 or 14 Day)

If **Deciding Official** reduces an Adverse Action Removal to *either a Letter of Warning in Lieu of Time–Off Suspensions 7 or 14- day or a Letter-of-Warning --*

- There is no MSPB Appeal or ELM 650 Hearing Appeal
- No NAPS Disciplinary Defense Fund (DDF) required

HOWEVER:

- Member may request an **ELM 650 Review** of the *Letter of Decision* per **ELM 652.44 Review**. Must request within 15-days from receipt of Letter of Decision.
- ELM 650 Review is Final.



USPS ELM 650 Adverse Action Appeal

Removals, Suspensions >14 Days, Furloughs or Reduction in Grade (ELM 652.2)

- When **Decision Letter** is received – EAS employee's appeal rights are stated in letter.
- Member's Appeal can't continue until decision letter is received.
- Decision to Appeal Adverse Action is Always member's decision.
- Member **MUST** contact NAPS Branch President to further Appeal if *Letter of Decision* is to effect Adverse Action.
- Possible Adverse Action appeal options:
 - Appeal to Merit Systems Protection Board (MSPB) – If Available
 - Appeal via ELM 650 Hearing through USPS VP Labor Relations
- Recommend MSPB if EAS qualifies per labor law.
- NAPS Disciplinary Defense Fund (DDF) available for either MSPB or 650 Hearing (*if member qualifies with NAPS*)



What if the Letter of Decision is to reduce Adverse Action to a less charge? (LOW or LOW-7 or 14 Day

- If **Deciding Official** reduces an Adverse Action Removal to *either* a Letter of Warning in Lieu of Time—Off Suspensions 7 or 14- day *or a Letter-of-Warning --*
 - There is no MSPB Appeal or ELM 650 Hearing Appeal
 - No NAPS Disciplinary Defense Fund (DDF) required

HOWEVER:

- Member may request an **ELM 650 Review** of *the Letter of Decision* per ELM **652.44 Review**.
- **ELM 650 Review is Final.**



ELM 651.7 Indefinite Suspension

651.77 Exceptions to Thirty-Day Notice

When there is reasonable cause to believe an employee is guilty of a crime for which a sentence of imprisonment may be imposed, the advance notice before effecting the adverse action may be reduced to no less than 7 calendar days.

At the expiration of the reduced notice period (7-days), the decision is issued at once.

If the decision is to suspend the employee indefinitely, the individual remains on the rolls in a nonpay, nonduty status pending a final decision or until the suspension is otherwise terminated.

If the decision is to remove the employee, the individual remains on the rolls only if a timely appeal is filed.



Indefinite Suspensions and Potentially Criminal Behavior: Using Reasonable Cause to Act

You may be aware that if an agency has reason to believe that an employee has committed a crime for which a sentence of imprisonment may be imposed that the employee can be removed in as little as seven (7) days. But, what if the agency does not feel sufficiently confident that the employee committed the crime and wants to wait for the criminal charges to be resolved before taking the removal action? If the agency would prefer not to have the employee at work or even in a pay status pending resolution of the criminal matter, then the agency can opt to indefinitely suspend the employee (without pay) while the agency waits for the criminal matter to be resolved.¹ In such cases, the basis for the action is not that the offense was committed, but only that the agency had reasonable cause to believe that the appellant committed a crime that could result in imprisonment. The agency still retains the option to remove the employee later for the underlying conduct.² The indefinite suspension without pay pending resolution of a criminal matter is considered a separate personnel action from a removal for the underlying criminal conduct and each type of action follows different rules.



To reiterate: An agency is not required to keep an employee in a pay status while the investigation or prosecution takes place if there is reasonable cause to believe the employee committed a crime for which imprisonment could be imposed. The *reasonable belief* is the foundation for the suspension action, not the merits of the case proving the alleged crime.⁹ Once that belief is resolved through the resolution of the criminal matter, the agency must act within a reasonable time period to either: (1) return to the employee to duty; or (2) take further administrative action (such as removing the employee).¹⁰

Appeal Indefinite Suspension via the ELM Reference below:

651.7 Adverse Actions

651.71 Definition

Adverse actions are defined as discharges, **suspensions of more than 14 days**, furloughs for 30 days or less, and/or reductions in grade or pay.



Thank You!



Questions?